

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gregory Joss	Team: Team # 3	CCRB Case #: 201106981	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/25/2011 2:18 PM	Location of Incident: § 87(2)(b)	Precinct: 34	18 Mo. SOL 11/25/2012	EO SOL 11/25/2012	
Date/Time CV Reported Wed, 05/25/2011 2:19 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/31/2011 2:49 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Erik Rodriguez	25962	929066	034 PCT
2. SGT Matthew Bourbeau	01596	929762	034 PCT
3. POM Carl Bennett	29180	929704	034 PCT
4. Officers			034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jose Rosario	02128	934136	034 PCT
2. POM Oscar Diaz	03012	936489	034 PCT
3. POM James Gilson	08085	932711	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Erik Rodriguez	Abuse: Officer Erik Rodriguez threatened to notify Administration for Children's Services.	§ 87(2)(b)
B.SGT Matthew Bourbeau	Discourtesy: Sgt. Matthew Bourbeau spoke obscenely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C. Officers	Abuse: Officers entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
D.POM Carl Bennett	Force: Officer Carl Bennett used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Carl Bennett	Force: Officer Carl Bennett pointed his gun at § 87(2)(b)	§ 87(2)(b)
F.POM Carl Bennett	Discourtesy: Officer Carl Bennett spoke obscenely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)

Case Summary

On May 25, 2011, § 87(2)(b) filed this complaint on behalf of herself, and her mother, § 87(2)(b) via telephone with the Internal Affairs Bureau (IAB log 11-23846) (Encl. 6A-6C). This complaint was forwarded to the Civilian Complaint Review Board on May 21, 2011 (Encl. 7A-7B).

On May 25, 2011 at approximately 2:15p.m., police officers pursued § 87(2)(b)'s son, § 87(2)(b) into her apartment at § 87(2)(b) in Manhattan. § 87(2)(b) was subsequently arrested. The following allegations resulted from the officers' actions:

• **Allegation A: Abuse of Authority – Officer Erik Rodriguez threatened to notify the Administration of Children's Services.** § 87(2)(g)

• **Allegation B: Discourtesy – Sergeant Matthew Bourbeau spoke obscenely to** § 87(2)(b)

and § 87(2)(b)

• **Allegation F: Discourtesy – Officer Carl Bennett spoke obscenely to** § 87(2)(b)

and § 87(2)(b)

§ 87(2)(g)

• **Allegation C: Abuse of Authority – Officers entered** § 87(2)(b) **in Manhattan.** § 87(2)(g)

• **Allegation D: Force – Officer Carl Bennett used physical force against** § 87(2)(b)

§ 87(2)(g)

• **Allegation E: Force – Officer Carl Bennett pointed his gun at** § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. She is a Hispanic female with black hair and brown eyes. She is 5'1" tall and weighs 140 pounds.

CCRB Statement

On May 25, 2011, § 87(2)(b) filed this complaint with IAB via telephone (Encl. 6A-6C). On June 3, 2011, she provided the CCRB with a telephone statement (Encl. 8A). On June 20, 2011, § 87(2)(b) was interviewed at the CCRB (Encl. 9A-9G). § 87(2)(g)

On May 25, 2011 at approximately 2:00p.m., at § 87(2)(b) in Manhattan, § 87(2)(b) was in her § 87(2)(b) floor apartment, with her infant child, and mother, § 87(2)(b) when police officers knocked on their apartment door. § 87(2)(b) went to the door, the officers identified themselves, and § 87(2)(b) opened the door. Four officers attempted to enter

the apartment, but § 87(2)(b) stood in their way and asked why they were there. The officers explained that they were in pursuit of § 87(2)(b)'s son, identified via investigation as § 87(2)(b).

PO1, identified by the CCRB through investigation as Sgt. Matthew Bourbeau, was described as a white male, approximately 5'11" to 6'0" tall, average build, a bald head, and in his forties. PO2, identified by the CCRB through investigation as PO Carl Bennett, was described as a Hispanic male, approximately 6'0" tall, muscular build, and with a shaven head. PO3, identified by the CCRB through investigation as PO Erik Rodriguez, was described as a light-skinned Hispanic male, approximately 5'9" tall, muscular build, with black hair combed back, and in his early thirties. PO4, identified by the CCRB through investigation as PO Jose Rosario, was described as a Hispanic male, approximately 5'0" tall, muscular build, bald headed and clean shaven, and in his thirties. All of the officers were assigned to the 34th Precinct and all were dressed in uniform except for Sgt. Bourbeau who was wearing a t-shirt with an NYPD emblem.

§ 87(2)(b) informed the officers that her son was not there and if they wanted to enter she would need to see a warrant. The officers said they did not need a warrant because § 87(2)(b) had run from them and they witnessed him run into the apartment.

§ 87(2)(b) indicated to the CCRB that § 87(2)(b) had been in the apartment, but left approximately 10-20 minutes prior to the officers' arrival and had not returned. However, § 87(2)(b)'s initial statement to IAB indicated that her brother, § 87(2)(b) ran into her apartment and then left out of the back window.

§ 87(2)(b) and the officers argued back and forth at the doorway for approximately seven minutes while the officers continually tried to push their way in by walking forward. § 87(2)(b) stood in their way, but she never tried to shut the door. While they were arguing, § 87(2)(b) was holding her child and PO Rodriguez threatened to call the Administration for Children's Services. Sgt. Bourbeau eventually said, "I'm a fucking sergeant and I'm going to get in." As the officers proceeded to push their way in, PO Bennett picked § 87(2)(b) up, with both of his arms underneath her legs and back, and dropped her on the floor. § 87(2)(b) landed with the lower part of her back hitting the floor first. PO Bennett then reached for and tried to open his asp, but § 87(2)(b) knocked it out of his hand.

§ 87(2)(b) then ran into the kitchen to dial 911 from her cell phone in order to report the officers. PO Bennett followed § 87(2)(b) into the kitchen, pointed his gun at her and her son, and asked, "Where the fuck is your brother?" § 87(2)(b) explained that her brother was not home and told PO Bennett he was "fucking crazy." PO Bennett then searched the apartment, but § 87(2)(b) did not see where he searched.

§ 87(2)(b) then went into the lobby of the building, still connected with 911. Sgt. Bourbeau followed her and asked, "Who the fuck are you calling?" § 87(2)(b) told Sgt. Bourbeau that she was reporting the officers' actions because they were illegal. Sgt. Bourbeau responded, "I don't give a fuck. I'm a fucking sergeant. Call whoever the fuck you want." § 87(2)(b) asked Sgt. Bourbeau if they were from the 34th Precinct and he confirmed that they were. PO Rosario was in the lobby of the building during this incident and had § 87(2)(b)'s friend, identified by the CCRB as § 87(2)(b) in custody. PO Rosario never entered the apartment.

§ 87(2)(b) could hear § 87(2)(b) screaming for her, so she went back into the apartment. PO Bennett and PO Rodriguez were trying to handcuff § 87(2)(b) who was seated on the floor in her bedroom with her back against her bed. § 87(2)(b) exclaimed, "Why are you taking me?" § 87(2)(b) was so distraught that she urinated on herself. § 87(2)(b) asked if she could change her clothes, but the officers would not allow her to do so. § 87(2)(b) was handcuffed and escorted out of the apartment. This entire incident lasted approximately ten minutes.

§ 87(2)(b) was first taken to the 34th Precinct stationhouse and then to § 87(2)(b). § 87(2)(b)'s arms were very swollen from being handcuffed. § 87(2)(b) did not know why the officers were looking for her brother and he was never arrested following this incident.

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. She is a Hispanic female with brown hair and brown eyes. She is 5'2" tall and weighs 138 pounds.

Statements to Medical Personnel

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) (Encl. 26A-26K). The records indicate that § 87(2)(b) stated that she tried to stop the NYPD from arresting her son by jumping on them. She stated she was pushed and thrown by the officers.

CCRB Statement

On June 20, 2011, § 87(2)(b) was interviewed at the CCRB (Encl. 10A-10G). § 87(2)(g)

On May 25, 2011 at approximately 2:00p.m. at § 87(2)(b) in Manhattan, § 87(2)(b) was in her apartment, § 87(2)(b) with her daughter, § 87(2)(b) and her grandchild. There was a knock at the door and the individuals outside identified themselves as the police. § 87(2)(b) opened the door and saw four police officers, identified by the CCRB as Sgt. Matthew Bourbeau, and Officers Carl Bennett, Erik Rodriguez, and Jose Rosario. The officers informed § 87(2)(b) that they were looking for her son, but she would not allow them to enter.

As the officers forced their way into the apartment, PO Bennett grabbed § 87(2)(b) called her a "fucking bitch," and then lifted her up and threw her to the floor. PO Bennett then brandished his asp. § 87(2)(b) was afraid PO Bennett might strike her, so she knocked the asp out of his hand and kicked it away from him. § 87(2)(b) was so upset that she urinated on herself and then called out for her daughter.

PO Bennett then approached § 87(2)(b) and asked, "Where is your fucking brother?" § 87(2)(b) went to her bedroom to change, but PO Bennett and PO Rodriguez followed her and handcuffed her. The officers then began checking the windows of her apartment, all of which have gates except one. § 87(2)(b) did not know if her son had run into the apartment or not. § 87(2)(b) had been in the apartment earlier that day, but § 87(2)(b) did not know at what time.

As she was being handcuffed, § 87(2)(b) asked PO Bennett and PO Rodriguez if she could change her clothes and take her medication, but the officers would not allow her to do so. § 87(2)(b) indicated that when the officers handcuffed her it caused a lot of swelling in her arms. § 87(2)(b) was taken to the 34th Precinct stationhouse. § 87(2)(b) requested her anti-depressant medication and was transported to § 87(2)(b) and then later to Manhattan Central Booking. She was charged with § 87(2)(b).

Witness: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. She is a Hispanic female with brown hair and brown eyes. She is 5'11" tall and weighs 145 pounds.
- § 87(2)(b) resides at § 87(2)(b) on the § 87(2)(b) floor, above § 87(2)(b).

CCRB Statement

On July 26, 2011, § 87(2)(b) was interviewed at her residence at § 87(2)(b) in Manhattan (Encl. 13A-13C). § 87(2)(g)

On May 25, 2011 at approximately 2:15p.m. at § 87(2)(b) in Manhattan, § 87(2)(b) heard shouting coming from the § 87(2)(b) floor of her building, so she went downstairs to see what was going on. She observed three uniformed officers standing at § 87(2)(b)'s door, apartment § 87(2)(b). The officers wanted to get into § 87(2)(b)'s apartment, but she continually told them they could not enter without a warrant.

§ 87(2)(b) then stood approximately fifteen feet away with direct line of sight to § 87(2)(b)'s apartment, but the officers obstructed her view into the apartment. § 87(2)(b) and § 87(2)(b) argued with the officers for approximately five minutes. § 87(2)(b) could not remember exactly what was said, but did hear PO Bennett, who was identified by the investigation, continually say, "I'm going to enter." § 87(2)(b) did not see § 87(2)(b) or § 87(2)(b) make any physical contact with the officers during this interaction.

PO Bennett then grabbed § 87(2)(b) by both of her arms, picked her up so that both of her feet were off the floor, and forcefully threw her down to the floor. § 87(2)(b) did not see how § 87(2)(b) landed. PO Bennett then grabbed § 87(2)(b) by both arms and dragged her a distance of approximately 30 feet down the hallway of her apartment. Sgt. Bourbeau, who was also identified by the investigation, then entered the apartment.

§ 87(2)(b) could not see what was happening inside the apartment because the door was now partially shut, but she could hear "commotion" and § 87(2)(b) crying out for her daughter. At some point, § 87(2)(b) went into the lobby of the building to make a phone call while PO Bennett and Sgt. Bourbeau were inside the apartment. § 87(2)(b) went back into the apartment however, when she heard § 87(2)(b) calling for her.

Shortly after, § 87(2)(b) was brought out of her apartment in handcuffs. § 87(2)(b) had bruises on her arms and had urinated on herself. At this point, other occupants of the building came out of their apartments and pleaded with the officers to "take it easy" on § 87(2)(b). The officers then escorted § 87(2)(b) out of the building.

Attempts to Contact Civilians

On September 8, 2011, contact was established with § 87(2)(b) in an attempt to speak with her brother, § 87(2)(b). § 87(2)(b) was not present for any FADO allegations, § 87(2)(g). § 87(2)(b) was not available and § 87(2)(b) could not provide the CCRB with his telephone number. On September 9, 2011 and September 21, 2011, please call letters were sent to § 87(2)(b)'s residence and were not returned by the United States Postal Service. On September 14, 2011, contact was established with § 87(2)(b) via telephone. Upon being told about the nature of the agency's investigation, § 87(2)(b) asked to be contacted on a different telephone number. The undersigned investigator immediately attempted to contact § 87(2)(b) on the number he provided and left a voicemail message. Subsequent contact attempts via telephone with § 87(2)(b) were negative.

§ 87(2)(b) and § 87(2)(b) could not identify the individual that was arrested at § 87(2)(b) on the date and time of the incident. According to the 34th Precinct command log from May 25, 2011, and PO Bennett's memo book, § 87(2)(b) was arrested along with § 87(2)(b) at § 87(2)(b). The command log indicates that § 87(2)(b) was released with a Desk Appearance Ticket. A search of the BADS database for § 87(2)(b)'s arrest was negative. On October 24, 2011, a please call letter was mailed to § 87(2)(b) at the

address listed in the command log, but was returned to the CCRB by the United States Postal Service. A LexisNexis search for telephone numbers connected with § 87(2)(b)'s address yielded negative results.

NYPD Statements:

Subject Officer: SERGEANT MATTHEW BOURBEAU

- *Sgt. Bourbeau is a § 87(2)(b)-old white male with brown hair and blue eyes. He is 6'1" tall and weighs 200 pounds.*
- *On May 25, 2011, Sgt. Bourbeau worked from 9:15a.m. to 6:12p.m. He was dressed in plain clothes and assigned to the 34th Precinct's Street Narcotics Enforcement Unit (SNEU) with PO Jose Rosario. The officers were assigned to an unmarked black Chevrolet Impala, # 365.*

Memo Book

At 2:15pm, one individual was under arrest by PO Erik Rodriguez. Arrest #

§ 87(2)(b) At 2:18pm, one individual was under arrest by Erik Rodriguez. Arrest #

§ 87(2)(b) (Encl. 14A-14C).

CCRB Statement

On October 25, 2011, Sergeant Matthew Bourbeau was interviewed at the CCRB (Encl. 15A-15C). His testimony is summarized below.

On May 25, 2011, Sgt. Bourbeau was conducting a SNEU set with his team. One of the officers, identified by the investigation as PO James Gilson and PO Oscar Diaz, in the observation post witnessed a drug transaction and provided Sgt. Bourbeau with a description for two male suspects. Sgt. Bourbeau did not recall the description that was provided.

When Sgt. Bourbeau and PO Rosario arrived at § 87(2)(b) in Manhattan at approximately 2:15p.m., they saw the suspects, identified by the CCRB through investigation as § 87(2)(b) and § 87(2)(b) enter the building. PO Rodriguez and PO Bennett were already at the location. PO Rosario was able to apprehend § 87(2)(b) in the hallway, but § 87(2)(b) who was never physically apprehended, fled into apartment § 87(2)(b) and slammed the door in Sgt. Bourbeau's face.

Sgt. Bourbeau knocked on the door which was answered by § 87(2)(b) and § 87(2)(b). Sgt. Bourbeau said, "Where is he?" Sgt. Bourbeau and PO Bennett then walked into the apartment. Sgt. Bourbeau did not articulate that § 87(2)(b) or § 87(2)(b) attempted to stop him or the officers, either verbally or physically, from entering the apartment. He stated that "everything happened so fast" and that the officers did not make any physical contact with § 87(2)(b) in order to enter the apartment. Sgt. Bourbeau did not say, "I'm a fucking sergeant and I'm going to get in." Sgt. Bourbeau indicated that he might have said, "I'm a sergeant and I can come in."

Upon entering the apartment, § 87(2)(b) jumped on PO Bennett's back, to the point where she was almost choking him, and started punching him. Both § 87(2)(b) and PO Bennett fell to the floor. Sgt. Bourbeau assisted in handcuffing § 87(2)(b) but other than that, he did not make any physical contact with her. § 87(2)(b) resisted being handcuffed by swinging and flailing her arms, but Sgt. Bourbeau did not need to use much force to overcome her resistance because she was a small woman. The only force used was simply grabbing a hold of her arms so that she could be handcuffed. PO Bennett did not grab, pick up, or throw § 87(2)(b) nor did he brandish his asp. During this interaction, PO Rodriguez was "probably just standing there" and PO Rosario, who never entered the apartment, remained in the hallway with § 87(2)(b).

PO Bennett and PO Rodriguez did not drag § 87(2)(b) along the floor at any point and Sgt. Bourbeau did not remember § 87(2)(b) going into her bedroom at any point. § 87(2)(b) was standing in the apartment holding her child while the officers were handcuffing § 87(2)(b) but Sgt. Bourbeau did not say anything to her about her child or threaten to call ACS. Sgt. Bourbeau stated that it was possible that another officer said something to § 87(2)(b) about her child, but he did not recall what, if anything, was said, or by who.

The officers took a quick look through the apartment to see if § 87(2)(b) was in the apartment. Sgt. Bourbeau later found out when he contacted IAB via telephone, that § 87(2)(b) reported that § 87(2)(b) had jumped out onto the fire escape. Sgt. Bourbeau drew his firearm to protect himself and the other officers because he did not know who was in the apartment and did not know why § 87(2)(b) ran from them. PO Bennett drew his firearm as well, but neither Sgt. Bourbeau nor PO Bennett ever pointed their guns at either § 87(2)(b) or § 87(2)(b). Sgt. Bourbeau did not say to § 87(2)(b) “Where the fuck is your brother?”

Sgt. Bourbeau did not remember if § 87(2)(b) made a phone call during this incident or if he had an argument with her during this incident. She might have made a phone call at some point, but Sgt. Bourbeau did not remember for sure. Sgt. Bourbeau did not say, “Who the fuck are you calling” or “I don’t give a fuck, I’m a fucking sergeant, call whoever the fuck you want.” Sgt. Bourbeau did not recall using any profanity at all during this incident and did not recall hearing any other officers use profanity.

§ 87(2)(b) did not have any visible injuries nor did she complain about any injuries. Sgt. Bourbeau did not interact with her at the 34th Precinct stationhouse and was not present with § 87(2)(b) at the hospital.

Subject Officer: OFFICER ERIK RODRIGUEZ

- *PO Rodriguez is a § 87(2)(b)-old Hispanic male with dark brown hair and brown eyes. He is 6’0” tall and weighs 218 pounds.*
- *On May 25, 2011, PO Rodriguez worked from 9:00a.m. to 5:35p.m. He was dressed in uniform and assigned to the 34th Precinct’s Street Narcotics Enforcement Unit (assigned to the apprehension team) with PO Carl Bennett, Sgt. Matthew Bourbeau, and PO Jose Rosario in an unmarked blue Crown Victoria, # 224.*

Memo Book

At 2:15pm and 2:18pm, a male and female were placed under arrest at § 87(2)(b). At 5:20pm, PO Rodriguez arrived at the 34th Precinct stationhouse for administration. At 5:45pm, PO Rodriguez was assigned to a hospitalized prisoner at § 87(2)(b). At 6:00pm, PO Rodriguez arrived at § 87(2)(b) with female prisoner § 87(2)(b). At 11:30pm, PO Rodriguez arrived at 34th Precinct stationhouse with a female prisoner (Encl. 16A-16C).

Medical Treatment of Prisoner Report

The Medical Treatment of Prisoner Report for § 87(2)(b) on May 25, 2011 was completed by PO Rodriguez (Encl. 29A). The report indicates that § 87(2)(b) complained of back pain and was transported to § 87(2)(b) via police vehicle # 4552 at § 87(2)(b).

CCRB Statement

On September 28, 2011, Officer Erik Rodriguez was interviewed at the CCRB (Encl. 17A-17C). § 87(2)(g)

On May 25, 2011, PO Rodriguez was assigned to SNEU with PO Bennett as the apprehension team. PO Rodriguez was at the stationhouse when the observation post, either PO Diaz or PO Rosario, provided PO Rodriguez a description of two males, identified by the CCRB through investigation as § 87(2)(b) and § 87(2)(b) who had just purchased marijuana.

PO Rodriguez observed PO Rosario run into § 87(2)(b) in pursuit of § 87(2)(b) and § 87(2)(b). PO Rodriguez and PO Bennett followed. PO Rosario was able to apprehend § 87(2)(b) but § 87(2)(b) ran into apartment § 87(2)(b). PO Rodriguez did not see § 87(2)(b) enter the apartment, but PO Rosario communicated to him that he witnessed § 87(2)(b) enter apartment § 87(2)(b). The apartment door was open and Sgt. Bourbeau was standing in the doorway. PO Rodriguez came up behind Sgt. Bourbeau and was met by § 87(2)(b) and her daughter, § 87(2)(b) who had a child in her arms. § 87(2)(b) had her arms stretched out across the doorway and told the officers that they could not enter. PO Rodriguez spoke to § 87(2)(b) in Spanish and explained to her that they needed to get in because they just saw an individual run into the apartment.

PO Rodriguez told § 87(2)(b) to “put her kid away” or to take her child into the kitchen because he did not want the child to witness anything negative. PO Rodriguez did not say anything to § 87(2)(b) regarding the Administration for Children’s Services (ACS), nor did he recall hearing any other officer say anything about ACS or threaten to call ACS. Sgt. Bourbeau and PO Bennett were also engaging § 87(2)(b) in conversation, but PO Rodriguez did not recall what was said. Sgt. Bourbeau did not say, “I’m a fucking sergeant, I’m going to get in.” PO Rodriguez did not say anything to that effect either.

When PO Bennett entered the apartment, § 87(2)(b) turned around and shoved PO Bennett “very hard” with both hands from behind, causing his head to snap back and causing him to drop his asp. When PO Bennett bent down to pick up his asp, § 87(2)(b) jumped onto his back. PO Bennett, who was bent over, almost kneeling down, regained his leverage and stood up, causing § 87(2)(b) to fall to the floor. PO Bennett did not grab, pick up, or throw § 87(2)(b) to the floor, nor did PO Rodriguez. While she was on the floor, PO Rodriguez was able to get one of her wrists handcuffed. She continued to resist, by not standing up, but eventually was handcuffed.

PO Rodriguez stayed with § 87(2)(b) while PO Bennett and Sgt. Bourbeau searched the apartment. PO Rodriguez did not know what § 87(2)(b) was doing at this point, but heard her say, “You guys are idiots, he went out the fire escape window a long time ago.”

PO Rodriguez did not draw his gun and could not testify as to whether or not PO Bennett or Sgt. Bourbeau drew their guns during this incident. PO Rodriguez did not say, nor did he hear any other officer say, “Where the fuck is your brother?” PO Rodriguez did not recall if § 87(2)(b) made or attempted to make a telephone call during this incident. He did not ask, nor did he hear any other officer ask, “Who the fuck are you calling?” PO Rodriguez did not hear Sgt. Bourbeau say, “I don’t give a fuck, I’m a fucking sergeant, call whoever the fuck you want.”

PO Rodriguez did not use any profanity or direct any profanity to either § 87(2)(b) or § 87(2)(b). PO Rodriguez did not hear any other officer use any profanity, but noted that once handcuffed, § 87(2)(b) was screaming very loudly.

Subject Officer: OFFICER CARL BENNETT

- *PO Bennett is a § 87(2)(b)-old black male with black hair and brown eyes. He is 6’1” tall and weighs 165 pounds.*
- *On May 25, 2011, PO Bennett worked the same tour and assignment as PO Erik Rodriguez.*

Memo Book

At 2:15pm, PO Bennett assisted PO Rodriguez with the arrests of § 87(2)(b) and § 87(2)(b) at § 87(2)(b) (Encl. 18A-18C).

CCRB Statement

On December 7, 2011, Officer Carl Bennett was interviewed at the CCRB (Encl. 19A-19C). § 87(2)(g)

On May 25, 2011 at approximately 2:15pm at § 87(2)(b) in Manhattan, § 87(2)(b) fled arrest by running into his apartment. PO Bennett corroborated Sgt. Bourbeau's and PO Rodriguez's testimony in regards to the threat to call ACS and the discourtesy allegation. PO Bennett, Sgt. Bourbeau, and PO Rodriguez then entered the apartment, without having to use any force. § 87(2)(b) did not try to block the doorway or prevent them from entering.

PO Bennett was holding his asp, which was still in its holster, and dropped it on the ground. When PO Bennett bent over to pick it up, § 87(2)(b) jumped on his back. PO Bennett then "took her down to the ground." PO Bennett clarified that he brought § 87(2)(b) over his shoulder. He did not throw her to the ground, but "tossed" her over his shoulder. He did not see how § 87(2)(b) landed. § 87(2)(b) did not punch PO Bennett when she jumped on his back.

PO Rodriguez and Sgt. Bourbeau might have assisted in handcuffing § 87(2)(b) but PO Bennett did not recall who exactly applied the handcuffs. No additional force was used to place § 87(2)(b) in handcuffs and PO Bennett could not see if § 87(2)(b) was resisting. PO Bennett did not see Sgt. Bourbeau or PO Rodriguez drag § 87(2)(b) down the hallway.

After § 87(2)(b) was handcuffed, PO Bennett drew his gun and cleared the apartment. He drew his gun because he did not know what § 87(2)(b) might have in his possession or who else might be in the apartment. Sgt. Bourbeau also drew his gun and helped clear the apartment. PO Bennett "peeked" in the bedroom, the bathroom, and under the beds, but did not find anyone else in the apartment. PO Bennett also checked the window and noted that the gate on the window was open.

At this point, § 87(2)(b) had been brought into the hallway. PO Bennett did not point his gun at either § 87(2)(b) or § 87(2)(b) nor did he see Sgt. Bourbeau point his gun at anyone. PO Bennett did not see what activity, if any, was taking place in the hallway because his focus was on clearing the apartment.

PO Bennett never saw § 87(2)(b) on her cell phone. He did not hear Sgt. Bourbeau ask, "Who the fuck are you calling?," nor did he hear him say, "I'm a fucking sergeant., call whoever the fuck you want." PO Bennett did not use any profanity at all during this incident and did not hear any other officer use any profanity during this incident.

Witness Officer: OFFICER JOSE ROSARIO

- PO Rosario is a § 87(2)(b)-old Hispanic male with brown hair and brown eyes. He is 5'7" tall and weighs 165 pounds.
- On May 25, 2011, PO Rosario worked the same tour and assignment as PO Erik Rodriguez and PO Carl Bennett.

Memo Book

At 2:15pm, PO Rosario entered § 87(2)(b) in regards to narcotics observation by observation post and an arrest was made of one male perpetrator. (Encl. 20A-20C).

CCRB Statement

On November 9, 2011, Officer Jose Rosario was interviewed at the CCRB (Encl. 21A-21C). PO Rosario corroborated the testimony of Sgt. Bourbeau, PO Rodriguez, and PO Bennett.

Witness Officer: OFFICER JAMES GILSON

- *PO Gilson is a § 87(2)(b) -old white male with brown hair and brown eyes. He is 6'3" tall and weighs 215 pounds.*
- *On May 25, 2011, PO Gilson worked from 9:00a.m. to 5:35p.m. He was dressed in plain clothes and assigned to the 34th Precinct's Street Narcotics Enforcement Unit as the observation post with PO Oscar Diaz. They were assigned to a non-descript vehicle.*

Memo Book

At 1:11am, PO Gilson transported two males and one female to MCB in van # 5988 with PO Diaz and PO Rodriguez. At 2:30am, PO Gilson transported one female prisoner specific to the 7th Precinct stationhouse, M579742. At 2:34am, one female prisoner out of van at the 7th Precinct stationhouse, M57974 (Encl. 22A-22B).

CCRB Statement

On December 20, 2011, Officer James Gilson was interviewed at the CCRB (Encl. 23A-23B). His testimony is summarized below.

On May 25, 2011 at approximately 2:00p.m., PO Gilson and PO Diaz were working as the observation post for a SNEU set. They were parked in a non-descript vehicle on St. Nicholas Avenue, between West 184th Street and West 185th Street, in Manhattan.

From inside their vehicle, the officers observed two males, identified by the CCRB through investigation as § 87(2)(b) and § 87(2)(b) walking and exchange between themselves, what appeared to be marijuana. The item PO Gilson saw exchanged was a green substance in a zip-lock bag. Based on his experience as a police officer, he believed the substance to be marijuana. PO Gilson did not see any money exchange hands. PO Gilson was approximately 20 feet away when he made this observation. PO Gilson indicated that the location is prone to drug transactions.

PO Gilson and PO Diaz informed the apprehension team that § 87(2)(b) and § 87(2)(b) had conducted a drug transaction, provided the apprehension team with a description, and trailed them in their vehicle. PO Gilson recalled giving the apprehension team a clothing description of the suspects, but did not remember any other details about the descriptions provided. § 87(2)(b) and § 87(2)(b) were heading westbound on West 185th Street towards Wadsworth Avenue. As PO Gilson and PO Diaz followed § 87(2)(b) and § 87(2)(b) they kept in contact with the apprehension team via point-to-point radio and updated them as to § 87(2)(b)s and § 87(2)(b)s location.

PO Gilson observed § 87(2)(b) and § 87(2)(b) enter § 87(2)(b). Once PO Gilson saw the apprehension team run into the building after them, he and PO Diaz left the location. PO Gilson and PO Diaz did not exit their vehicle or enter § 87(2)(b).

Witness Officer: OFFICER OSCAR DIAZ

- *PO Diaz is a § 87(2)(b) -old Hispanic male with black hair and brown eyes. He is 6'1" tall and weighs 180 pounds.*
- *On May 25, 2011, PO Diaz worked the same tour and assignment as PO James Gilson.*

Memo Book

At 1:11am, PO Diaz transported two males and one female to MCB in van # 5988 with PO Gilson and PO Rodriguez. At 2:30am, PO Diaz transported one female prisoner specific to the 7th Precinct stationhouse. Van mileage: 579742. At 2:34am, one female prisoner out of van at the 7th Precinct stationhouse. Van mileage: 57975 (Encl. 24A-24B).

CCRB Statement

On December 20, 2011, Officer Oscar Diaz was interviewed at the CCRB (Encl. 25A-25B). § 87(2)(g)

PO Diaz did not recognize a photo of § 87(2)(b) and stated that he did not have any interaction with her at the stationhouse. He could not testify as to whether or not he saw § 87(2)(b) or if she had any visible injuries.

Medical Records

- On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) (Encl. 26A-26K). § 87(2)(b)'s chief complaint was back, neck and breast pain. The records indicate that § 87(2)(b) stated that she tried to stop the NYPD from arresting her son by jumping on them. She stated she was pushed and thrown and developed pain in neck, lateral chest, and both breasts. The records further indicate that § 87(2)(b) was screaming and crying in the Emergency Department and stating that she wanted to die because she did not want to be arrested. § 87(2)(b) denied suicidal ideation and homicidal ideation. § 87(2)(b) indicated that she was on medication for depression. Spine, rib, and chest x-rays were negative for fractures.

NYPD Documents

SPRINT Report and Recording

SPRINT report # § 87(2)(b) from May 25, 2011 (Encl. 27A-27B) indicates that Sgt. Bourbeau was directed to 10-3 (call dispatcher by telephone) upon completion of assignment. The report further indicates that § 87(2)(b) called 911 to report that police at the location grabbed her mother and pulled a gun on her. At 3:40pm, an arrest for two individuals was verified.

The recording for SPRINT report # § 87(2)(b) (Encl. 27C-27D) indicates that there was a lot of screaming at the location. § 87(2)(b) informed the 911 operator that the police slammed her mother to the ground and pulled their guns out. § 87(2)(b) was connected to IAB. She can be heard speaking with an officer in the background, but the conversation is inaudible. § 87(2)(b) can be heard saying, "I don't care who you are." § 87(2)(b) further indicated that her brother ran into the apartment and that police officers chased after him. § 87(2)(b) did not know why the officers were chasing her brother.

34th Precinct Command Log

According to the command log for May 25, 2011 (Encl. 28A-28O), § 87(2)(b) was logged into the 34th Precinct stationhouse at 2:25pm by PO Rodriguez. Her physical and mental condition was listed as "combative." The command log indicates that § 87(2)(b) did not request medical attention. At 1:05am, van # 5988 transported § 87(2)(b) to Manhattan Central Booking.

§ 87(2)(b) was also logged in at 2:25pm by PO Rodriguez and charged with § 87(2)(b). § 87(2)(b) was released at 10:59pm with a Desk Appearance Ticket.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming malicious prosecution, false arrest, false imprisonment, personal injuries, post-traumatic stress, anxiety, humiliation, embarrassment, medical expenses, and lost wages and seeking an unspecified amount of monetary damages as redress (Encl. 33A-33G).
- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming false arrest, false imprisonment, personal injuries, post-traumatic stress, anxiety, fear, humiliation, embarrassment, and violation of civil rights and seeking an unspecified amount of monetary damages as redress (Encl. 33A-33G).

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint filed by either § 87(2)(b) or § 87(2)(b) (Encl. 3A-3B).

Subject Officer(s) CCRB History

- Sgt. Matthew Bourbeau has been a member of the service for nine years and there are no substantiated CCRB allegations against him (Encl. 2A)
- Officer Erik Rodriguez has been a member of the service for ten years and there are no substantiated CCRB allegations against him (Encl. 2B).
- Officer Carl Bennett has been a member of the service for nine years and there is one substantiated CCRB allegation against him (Encl. 2C-2D).
 - In CCRB case number 200903652, one allegation of Abuse of Authority (retaliatory summons) was substantiated against him. The Board recommended charges. In September of 2010, the NYPD imposed instructions.

Conclusion

Identification of Subject Officers

Sgt. Bourbeau, PO Rodriguez, and PO Bennett acknowledged interacting with § 87(2)(b) and § 87(2)(b)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority – Officer Erik Rodriguez threatened to notify the Administration of Children’s Services.

§ 87(2)(b) alleged that while she was arguing with the officers at the doorway of her apartment, PO Rodriguez threatened to call the Administration for Children’s Services

(ACS). PO Rodriguez acknowledged that he told § 87(2)(b) to “put her kid away,” but denied saying anything to § 87(2)(b) with regard to ACS and no other officer heard him do so. In addition, neither § 87(2)(b) nor § 87(2)(b) testified that a threat to call ACS was made.

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Discourtesy – Sergeant Matthew Bourbeau spoke obscenely to § 87(2)(b)

and § 87(2)(b)

Allegation F: Discourtesy – Officer Carl Bennett spoke obscenely to § 87(2)(b) and

§ 87(2)(b)

§ 87(2)(b) alleged that while she and § 87(2)(b) were standing at the doorway of their apartment, Sgt. Bourbeau stated, “I’m a fucking sergeant and I’m going to get in.”

§ 87(2)(b) further alleged that Sgt. Bourbeau cursed at her, using several variations of the word “fuck” while she was calling 911. § 87(2)(b) also alleged that PO Bennett asked her, “Where is your fucking brother?” In addition, § 87(2)(b) alleged that PO Bennett called her a “fucking bitch.” Both Sgt. Bourbeau and PO Bennett denied using any profanity towards § 87(2)(b) and § 87(2)(b) and no other officer heard them do so. Furthermore, § 87(2)(b) could not articulate exactly what was said between § 87(2)(b) and the officers either at the doorway of the apartment, or inside of the apartment.

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Abuse of Authority – Officers entered § 87(2)(b) in Manhattan.

It is undisputed that officers entered § 87(2)(b) in Manhattan. Sgt. Bourbeau, PO Rodriguez, and PO Bennett testified that they entered said apartment in pursuit of § 87(2)(b) who had completed a narcotics transaction with § 87(2)(b) who was already apprehended and detained by PO Rosario. The officers entered without a warrant, and testified that they were acting based on information provided to them by PO Diaz and Gilson, who stated that they witnessed § 87(2)(b) and § 87(2)(b) complete what they believed to be a narcotics transaction.

The Court of Appeals lists six factors to be considered in determining whether exigent circumstances exist to make a warrantless entry for purpose of arrest: 1) the gravity or violent nature of the offense to be charged; 2) whether the suspect is reasonably believed to be armed; 3) a clear showing of probable cause to believe the suspect committed the crime; 4) whether there’s a strong reason to believe the suspect is in the premises to be entered; 5) the likelihood that the

suspect will escape if not immediately apprehended, and 6) the peaceful circumstances of the entry. The ultimate test is whether, in totality of circumstances, an urgent need exists for the entry People v. McBride, 14 N.Y.3d 440 (2010) (Encl. 1A-1G).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D: Force – Officer Carl Bennett used physical force against § 87(2)(b)

§ 87(2)(b) alleged that upon entry into their apartment, PO Bennett picked up § 87(2)(b) and dropped her on the floor. § 87(2)(b) alleged that PO Bennett picked her up and threw her to the floor. However, § 87(2)(b)'s initial statement to medical personnel following this incident is that she jumped on officers in order to prevent them from arresting her son. In her CCRB statement, § 87(2)(b) indicated that she did not know if her son ran into the apartment or not. § 87(2)(b) alleged that PO Bennett grabbed § 87(2)(b) by both arms, lifted her so that her feet were off the ground, and then forcefully threw her to the ground. PO Bennett denied committing any of the aforementioned actions and no other officer saw him do so.

PO Bennett testified that when he entered the apartment, he dropped his asp on the ground and when he bent over to pick it up, § 87(2)(b) jumped on his back. PO Bennett then “tossed” § 87(2)(b) over his shoulder and to the ground. Sgt. Bourbeau and PO Rodriguez were consistent in their statements in that § 87(2)(b) jumped onto PO Bennett’s back and that PO Bennett did not pick up § 87(2)(b) and drop or throw her to the ground.

According to Patrol Guide Procedure 203-11 (Encl. 1H-1I), only the amount of force necessary to overcome resistance will be used to effect an arrest.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation E: Force – Officer Carl Bennett pointed his gun at § 87(2)(b)

§ 87(2)(b) alleged that in addition to PO Bennett allegedly asking, “Where is your fucking brother?” he also pointed his gun in her face while she was holding her child in the kitchen. She also reported to 911 that “police” pulled a gun on her. PO Bennett confirmed that he drew his gun upon entry into the apartment, but denied pointing it at § 87(2)(b). Furthermore, PO Rodriguez testified that he did not see PO Bennett draw his gun, let alone point it at § 87(2)(b). In addition, § 87(2)(b) did not testify that any officer drew his gun and § 87(2)(b) was not able to see into the apartment from her vantage point because the door was partially closed.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date